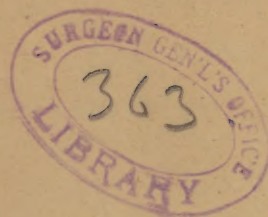


CHAILLE', (S.E.,)

History of the laws regulating  
the practice of medicine &c





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HISTORY OF THE LAWS REGULATING THE PRACTICE OF  
MEDICINE, ETC., IN LOUISIANA, 1808 TO 1878.

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All reputable physicians, even the transgressing professors of medical colleges, deplore the facility with which medical diplomas are obtained, and the condition of medical education in the United States. The belief is apparently general in the profession, that laws can and should rectify our evils; and in those states destitute of laws to regulate the practice of medicine, there seems to be a strong desire to organize efforts to have such laws enacted.

At the recent session of the Louisiana Medical Association, one of its members, advanced in years, referred to the "good old times" from 1808 to 1852, when Louisiana was blessed with such laws; describing, from his own experience in the "Western District," a professional Arcadia, wherein there were no patent medicines to corrupt, nor quack doctors to break through the health and steal the money of fortunate patients. The general desire for some legislative action was so decided that it was "Resolved, That a committee of five\* be appointed, whose duty

\* The published proceedings erroneously report "Dr. Chaille" as one of this committee. I was appointed by the President, who, however, at my request relieved me from this duty, appointing some other member, whose name I have forgotten, in my place.





it shall be to draw up a petition to the Legislature to reëstablish examining boards," which, "on Dr. Chaillé's motion," was so amended as to read "whose duty it shall be to consider the propriety of petitioning the legislature to reëstablish examining boards" The reason which prompted me to move this amendment will abundantly appear in the following history, which will, I believe, prove instructive to all physicians in every state as well as in Louisiana, who are at all interested in the subject of laws regulating the practice of medicine. First, the laws will be stated; second, *the results* of these laws.

Orleans Territory, purchased from France in 1803, was admitted as the State of Louisiana in 1812. March 23d, 1808, the following law was approved: "Be it enacted by the Legislative Council and House of Representatives of the Territory of Orleans in General Assembly convened, That no person shall presume to practice medicine, without *first* exhibiting satisfactory proof of his having qualified himself as such by previous studies, which shall be made to appear by a diploma of any University or School in which he may have pursued his studies. The candidate shall exhibit said diploma to the Mayor of the City of New Orleans, who shall *then* fix on a day, and shall appoint four physicians or surgeons from among the oldest practitioners, whose duty it shall be publicly to examine the candidate, and to give him a certificate of admission, if he should be admitted; which certificate shall be signed by the four examiners, and by the Mayor who shall cause the seal of the city to be affixed to the same."

March 16th, 1816, an act was approved\* which repealed the law of 1808, and its provisions may be summarized as follows: It required that *apothecaries* should undergo an examination as well as physicians; that the Governor should appoint four physicians and one apothecary to compose the Medical Examining Board for the whole state; that every practising physician and apothecary in the state (except those whose certificates under the law of 1808 were recorded in the clerk's office of the parish in which they practiced) should petition the Mayor of New Orleans for examination, who, summoning the Medical Board, should have the applicant examined in the presence of himself and of two aldermen, and if the examination proved satisfactory

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\* See pp. 84-86, Acts of 1816.

to a majority of the Board, should give a certificate; that any violator of this law should incur for the first offense a fine not exceeding \$100, and for the second offense \$200, with imprisonment not exceeding one year; that it should be the duty of the Attorney General to prosecute all offenders; and that these laws should apply to all persons except to "any inhabitant or planter in the country, who on the application of any of his sick neighbors should procure them some alleviation, or administer them any kind of physic."

February 18th, 1817, "an act supplementary to the act of 1816" was approved\* which modified the previous law as follows: Two Medical Examining Boards (for the two judicial districts of the Supreme Court) were established—one for the Eastern District, to hold sessions in New Orleans, and to be composed of five members, "commissioned by the governor with the advice and consent of the senate;" the second board for the Western District, to hold sessions at Opelousas, and at Alexandria, and to be composed of six members; no person should be a member of the Boards unless he himself had secured a legal certificate; the apothecary-member should examine only apothecaries; three should be a quorum of a Board, and a majority was required to grant a certificate; each Board should elect its president and clerk from its own members, and should collect \$20 for each certificate granted; the powers of each Board should be limited to its special district, but a certificate from either board should be valid throughout the state; all physicians of ten years' practice in the state, antecedent to the act of 1816, were permitted to practice "without being obliged to obtain a license, as required for other physicians by the laws of the state."

March 1st, 1820, "an act, supplementary to the acts of 1816 and 1817," was approved,† providing as follows: that the provision of the law requiring applicants to be examined in presence of the mayor and two aldermen was repealed; that the Board for the Eastern District should consist of six members [instead of five], five physicians and one apothecary; that "any applicant who may have been graduated, or may have obtained a diploma of doctor of medicine in any of the colleges or universities of the United States, shall, on producing the same with satisfactory

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\* See pp. 90-94, Acts of 1817.

† See pp. 30-2, Acts of 1820.



evidence of good moral character to either of the Boards, be admitted to practice medicine within this state;" that whenever the President of a Board had knowledge of any violation of the laws as to physicians and apothecaries, it should be his duty to inform the Attorney General, "*who shall be bound to prosecute such persons for the amount of the fines and forfeitures of the law.*"

March 27th, 1840, "Act No. 91, Relative to the Medical Board of the Eastern District of the State of Louisiana" was approved,\* and the chief alterations it effected were as follows: It was provided, that the Medical Board of the Eastern District should consist of six physicians and two apothecaries; that every individual who intended to practice in this state as a physician, apothecary, or *midwife*, should deposit with the Secretary of the Board a diploma, and thereafter be examined by the Medical Board, four members of which should constitute a quorum; that no graduates should be permitted to practice medicine, etc., unless authorized by the Board, *except graduates of the Medical College of Louisiana*;† that any candidate rejected by the Board should have the right to claim *a public examination*; that all violators of this law should, for the first offense, be liable to a fine not exceeding \$100, and for the second offense to a fine not less than \$200, nor more than \$500.

These four Acts of 1816, 1817, 1820, and 1840, were the laws which prevailed for the twelve years from March 27th, 1840, until March 10th, 1852, and their various provisions are found codified as follows in the

"REVISED STATUTES OF THE STATE OF LOUISIANA, FEBRUARY 5TH, 1852.

"*Physicians and Apothecaries.*

"1. No person shall have the right to practice physic, surgery, midwifery or the profession of apothecary in any part of the State of Louisiana, without having previously undergone an examination, and obtained a certificate, which shall be delivered to him by a medical board, in the manner hereafter prescribed, unless the degree of doctor of medicine shall have been previously conferred on him by the University of Louisiana. [1816, 84-1; 1817, 92-4; 1840, 100-3-5; 1847, 41-9.]

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\* See pp. 99-101, Acts of 1840.

† The "Medical College of Louisiana" was organized September, 1834, and was converted by law, February 15th, 1847, into the present "Medical Department of the University of Louisiana."

"2. The medical board shall be composed of six physicians and two apothecaries, and shall hold its sessions in the city of New Orleans. The members of the said board, as at present organized, shall constitute the said board. [1817, 90-1-2.]

"3. Four of the members of the board shall constitute a quorum to do business, and all vacancies occurring hereafter therein shall be filled by a commission from the governor (with the advice and consent of the senate), as members of the Medical Board for the State of Louisiana; Provided, however, that no member shall be appointed who has not obtained a certificate to practice physic and surgery, or the profession of apothecary under some law of this state; Provided that the apothecaries making part of the board shall only take part in the examination of apothecaries to be licensed by authority of law. [1840, 100-2.]

"4. The members of the board shall choose from among their own number a president, who shall preside at their respective meetings. They shall also appoint a clerk, who shall keep a correct journal of all the proceedings of the board, which shall contain a registry of the names of the different applicants they may have admitted to the practice of physic and surgery, of midwifery, or of the profession of apothecary; and the majority of the board agreeing to the admission of an applicant after his examination, shall be authorized to issue a certificate of such examination and admission. [1817, 92-3; 1820, 30-3-4; 1840-99-100.]

"5 Every individual who shall intend to practice the profession of physician, apothecary, or of midwifery, within this state, shall present to, and deposit with the Secretary of the Medical Board, a diploma, obtained from a board of physicians, or a legally instituted medical college, or in lieu thereof, satisfactory evidence that he has been possessed of such a diploma, of which he has been deprived by some unavoidable cause; it shall then be the duty of the secretary to assemble the Medical Board. [1840, 100-2.]

"6. A candidate who shall have graduated in any other than the Medical College of Louisiana, shall not be permitted to practice the profession of a physician, an apothecary, or of midwifery, unless said person shall previously have established to the satisfaction of the Medical Board, either by a formal examination, or by a scientific conversation, that he is entitled to his diploma; and whenever the majority of said board shall acknowledge said candidate to be possessed of all the information and moral qualities required by the branch of the profession for which he applied, they shall deliver to said candidate a license designating on which of the three branches of the profession he was examined, and said board shall have a right to demand and receive from said candidate at the time of the delivery of said license the sum of twenty dollars, if the application be to prac-



tice as a physician or apothecary, and the sum of ten dollars, if to practice midwifery, which sum (after the expenses of the board have been deducted) shall annually be paid over to the Treasurer of the Charity Hospital, to be appropriated to the use of said hospital; and any candidate, who agreeably to the preceding section, shall have been admitted to an examination on the exhibition only of a certificate testifying the loss of his diploma, shall receive only a temporary license, to have effect only during the time that may be necessary to obtain from the medical board or college of which he is a graduate another diploma, or an equivalent document; and the said time shall not exceed three months when said candidate shall have graduated in America, or six months if he has graduated in Europe. [1840, 100-3.]

"7. Any candidate who shall have been rejected, shall have a right to claim a public examination, by the same members of the board who rejected him; and notice of said examination shall be published three successive days in English and French in one or more gazettes of the state. [1840, 100-4.]

"8. It shall be the duty of every individual who shall receive a license from the said board to practice the profession of a physician, an apothecary, or of midwifery, to cause the said license to be recorded, in the clerk's office of the parish in which he shall exercise his profession, in order to apply to it in case it should be necessary; Provided always that every individual now practising physic, or the profession of apothecary, and having complied with the formalities required by previous laws concerning physicians, surgeons and apothecaries, shall be authorized to continue the exercise of his profession, after having caused to be recorded in the clerk's office of the parish in which he practices, the certificate which the said laws required him to obtain. [1816, 84-3.]

"9. Every person who shall practice in the State of Louisiana the profession of a physician, an apothecary, or that of midwifery, without a special license granted by the Medical Board, or a diploma from the University of Louisiana, conferring the degree of doctor of medicine, shall be liable to a fine that shall not exceed the sum of one hundred dollars for the first offense, and for the second offense, such person shall be fined in a sum that shall not be less than two hundred and not more than five hundred dollars, recoverable by said Medical Board, or by any person before any court of competent jurisdiction in this state; and said fines, after deducting the fees of counsel for prosecuting, to be taxed by the court before which suit is brought, shall be paid by the clerk of said court to the Treasurer of the Charity Hospital. [1840, 101-5; 1845, 99-100.]

"10. Nothing herein contained shall be so construed as to prevent any person residing out of New Orleans, from selling medicine which shall have been purchased from any legal apothecary.



eary, and which shall have been plainly labelled by said apothecary; or to apply to any inhabitant or planter in the country, who on the application of any of his sick neighbors should render them assistance or administer remedies to them" [1820, 30-5; 1816, 86-4.]

The laws, now stated in full, which regulated the qualifications of physicians, of apothecaries, and of midwives in Louisiana, seem to me (not a lawyer) as wise, stringent, and satisfactory as could be demanded by the medical profession. So far as the provisions of these laws are concerned, I believe them to have been as *efficient in language* as have ever been enacted in any of the states. They were repealed by the influence, as was publicly reported at the time (a report which I never heard disputed), of the notorious "cancer doctor, Dr. Gilbert," who, as was alleged, visited the capitol at Baton Rouge, and there judiciously administered champagne, oyster suppers, and similar seductions, such as experience has proved to be persuasive with the ordinary American legislator.

The repealing law was Act No. 136, approved March 10th, 1852,\* and reads as follows:

#### AN ACT,

##### *In reference to Medical Practitioners.*

SECTION 1. Any person or persons having an authentic and genuine diploma from *any chartered medical college or society* in the United States, whether the same *be allopathic or otherwise*, shall be and are hereby allowed to practice medicine, surgery, or midwifery in this state, without having to procure any further license; and may charge, demand and receive for their visits, medicines, prescriptions, and medical services, the fees usually paid for similar services in the district or locality where said services may be rendered.

SEC. 2. All laws and parts of laws contrary to this act be and the same are hereby repealed, and this act to take effect from and after its passage.

Before proceeding to state the further history, and the present condition of our laws, I will halt to present the operation and results of the apparently wise and efficient Acts which governed this state from 1808 to 1852, and especially of those given in full as in operation during the twelve years from 1840 to 1852. In

\* See p. 193 Acts of 1852; also Act No. 256 of 1855; also the "Revised Statutes, 1856."

1844 was established the "New Orleans Medical and Surgical Journal," the first of its kind in the State, and the only source from which trustworthy evidence in this matter can be obtained. From the pages of this Journal is derived the following emphatic and most instructive evidence,\* which tends to prove that, while a charlatan cancer doctor may have been, in 1852, the immediate cause of, other causes more radical had been constantly tending to bring about, the repeal of our apparently excellent laws.

In the very first number of the Journal (pp. 82-3, vol. i.), July, 1844, the honored editors, Drs. Fenner and Hester, reported as follows: "In a republican government like ours, where every man claims the right, and generally exercises it, too, to follow any occupation or profession most congenial to his own feelings, or best calculated to 'put money in his purse' without regard to, or even in defiance of all legislative enactments—we must expect them to resist every restriction which may tend to interfere with this high prerogative, or to confine them to their legitimate business or avocations. To this propensity almost instinct, inherent in the American mind, the public, for whose health and well-being these laws were enacted, lends its patronage and powerful influence. Hence the evil, against which the law was levelled, has been only partially corrected; the spirit and even the letter of the law has been violated or evaded under various pretences, and we now see established in every quarter of our city those who are not enrolled on the *ad eundem* list, and who nevertheless practice every branch of the profession, and that, too, without molestation or restriction. These *soi-distant* followers of Machaon are violating the laws of the state from day to day—and our Medical Board of Examiners either connive at this open public infringement upon the dignity and respectability of the medical profession, and positive violation of our statutes, or neglect to discharge an important and solemn duty to the public. In either event, the consequences are most disastrous to the profession, and highly detrimental to the public welfare." \* \* \*

"If the board is not more efficient for the future, *than it has been during the past, let the legislature repeal the law, and abolish the board.* As it now stands, its force is expended alone on the

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\* All unspecified references in this article are to the N. O. Medical and Surgical Journal.



worthy and deserving members of the profession, who, prompted by just motives of pride, come before the board in obedience to the dictates of their own feelings, and in order to conform, like every good citizen, to the laws of the state."

The above extracts justify the suspicion that the governor of the state had, "with the advice and consent of the senate," exercised most injudiciously the power to appoint the members of the board. But investigation proves that this suspicion would be most unjust; for I find that in 1840, the six physicians of the Eastern Board were Drs. Barton and Jones, Professors in the Medical College of Louisiana, Drs. Labatut, Lambert, Rice, and Fortier. I have no recollection of the last two, but do know that no physicians in this state deserved or enjoyed higher reputation than the first four. The board of 1847, and probably of several subsequent years, was composed of six of the most famous and honored physicians in this city, viz., Professors Warren Stone, Thomas Hunt, and John Harrison, M.D., and Drs. Labatut, Landreaux, and J. Hampden Lewis who still lives beloved and respected by all who know him. Manifestly, if boards thus constituted failed to secure the results expected, then no board, however constituted, would prove efficient. The members of the Western Board were also of unquestionably good repute.

In the March No., 1846 (pp. 688-690, vol. ii.), the editors, who then were Drs. Fenner and Hester together with Professors Carpenter and Harrison, published a letter in reference to the "Western Board," preceding this with editorial comments as to both boards. The indignant correspondent, "J. B. D.," testified to the following among other facts. "Physicians settling in this part of the state encounter great difficulty in procuring their licences to practice medicine from the Board of Examining Physicians in the Western District. This board is constituted of physicians residing at a distance from each other, and it is almost impossible ever to get a sufficient number of them together to form a quorum to grant licenses, conformably with the law of the state. This difficulty is made an excuse by physicians for not complying with the law, and they *here practice their profession with impunity in open violation of the law.* I have conversed with many physicians in this section of the state, and *all agree*, even the members themselves of the board, that this Western Board is perfectly useless, nay, a positive injury, and should be abolished;

and that we should have but one board in the State, and that at New Orleans. *Not one physician in fifty residing in the Western District has complied with the law,*" etc., etc. "This subject ought to be brought before the legislature immediately; the Western Board ought to be abolished, and in every parish *one or two* medical men should be appointed *whose duty* it shall be to present to the grand juries of the several courts the names of all physicians who practice medicine in violation of the law."<sup>\*</sup>

The above named editors thus commented on this letter :

"In regard to the abolition of the Western Board of Medical Examiners, the remarks of our correspondent are doubtless well grounded, and his suggestions may be very good; but we will take occasion to express our regret at *the negligence of the entire body*. In this state we have already on our statute books good laws for the regulation and protection of the profession, yet from the supineness of the medical boards, they remain virtually *a dead letter*. Throughout the state—even in this city, under the very eyes of the Eastern Board—scores of physicians and druggists are pursuing the profession contrary to law." [I beg permission to interrupt this extract, urging the reader to remember that the above was written in 1846, and that one of these very denunciatory editors, Prof. John Harrison, M.D., became a member, in 1847, of the much abused Eastern Board.] "In short, the operation of the law at present only seems to impose a tax of twenty dollars on such gentlemen as have too much pride to practice without obtaining license. Thus a burden is imposed upon such as would do honor to the profession and the state, while quacks and impostors are permitted to carry on unmolested their unholy and outrageous traffic in human life. This evil cries aloud for reform; and *if public sentiment will not sustain* the better part of the medical profession in the discharge of the high responsibilities that devolve upon them, we hesitate not to say that *the laws regulating the profession had as well be repealed.*"

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\* In 1847 was published a pamphlet containing the excellent "By-Laws of the Medical Board of Louisiana for the Eastern District." "Sec. 6, Art. 14," reads, "That this Board will every year at its first meeting in January appoint a committee of Physicians in each parish of its District (and recommends the Western Board to do the same in its District), whose duty shall be to co-operate with this Board in enforcing compliance in their respective parishes with the requisites of the law."



In September, 1846 (p. 277, vol. iii.), the editors above named stated among other things, "We are pleased to discover that the Eastern Board is at last awakened to a sense of its duties, and is determined to have the laws for the regulation of the medical profession carried into full effect. They have published in the city newspapers the names of all the licensed physicians [194], apothecaries [50], and midwives [12] they have upon their books,\* and have given notice that all persons acting in contravention of the law, who do not come forward within thirty days and comply with its requisitions, will be prosecuted with the utmost rigor. This is perfectly right; the law should be either enforced or *repealed*." "There are doubtless a great many now practicing in the Eastern District contrary to law. We are informed that a number of suits have been commenced, and will be prosecuted with vigor. We hear nothing of the Western Board, except occasionally of an individual who has gone before it and readily obtained license, *after having failed or been deterred from coming before the Eastern Board.*" The editors also argued that the law should be amended, and a medical convention called to consider, "1st, the addition of *imprisonment*† to the penalties of the present law; 2d, the abolition of the Western Board; 3d, the repeal of the odious tax upon practicing physicians; and 4th, the formation of a state medical society."

In July, 1848, the editors, *Prof. John Harrison, M.D.*, and Dr. Hester,‡ stated (pp. 126-7, vol. v.): "As a general rule, those only who feel and know that they are incompetent to practice the profession of medicine, *refuse* to come forward and pass the ordeal of the board." "We need scarcely say that not one of the above resolutions [referring to certain wise by-laws of the board], to our knowledge, has been carried into effect, the consequence of which is that the community is imposed upon, and drugged by vendors of patent medicines to an extent almost incredible." As the law bears hardly [examination and tax] upon the proud and educated gentlemen of the profession, and per-

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\* The published "List of Licentiates of the Medical Board of the Eastern District of Louisiana to December 20th, 1847," details the names of 627 physicians, 115 apothecaries, 37 midwives, and 5 dentists.

† Imprisonment was the penalty of a second violation of the law of 1816, and so continued until 1840.

‡ Dr. Hester became a member of the Eastern Board in 1849 (see p. 142, vol. vi).

mits the servile and ignorant impostors to go unwhipped of justice,' we think, from its unequal and unjust operation, *it should be altogether abolished,*" etc.

In May, 1851, Dr. Hester, editor and ex-member of the Eastern Board, wrote (pp. 808-811, vol. vii.): "It has been urged that the license law, as it now stands, confers no benefit nor yields any protection whatever. *We confess that this is too true.*" "The suppression of this wholesale quackery and charlatanism, *as it now exists*, we are fearful cannot be accomplished. We very much question the probability of our obtaining any legislative redress whatever for our grievances. The public, whose judgments are difficult to convince in opposition to their preconceived notions, or no notions whatever—or we might say superstitious reverence for ignorant pretensions and the marvelous—would never consent to the enactment of a penal statute for the protection of this or any other science." "We must acknowledge, with regret, that legislative enactment, *even if it can be procured, will be of but little use.*"

Such is the evidence of the inefficiency of seemingly most excellent laws, evidence derived from columns edited by distinguished members of the profession, several of whom had served on the Medical Examining Board charged with the execution of these laws.

Some testimony will now be presented from even a higher source—the Louisiana State Medical Society, which was organized in 1849. At its Second Annual Session, March 15th, 1851, Dr. Wm. P. Hort, as chairman of a committee on "Medical Education and the License Law," made a very valuable report (pp. 314-327, vol. viii.), from which the following quotations are extracted. "The *Boston Medical and Surgical Journal* made a statement in 1850 [or 1851], from which it appears that laws regulating the practice of medicine are in existence in only three\* states—New Jersey, Louisiana, and Michigan, and in the District of Columbia. In twelve states—Maine, Vermont, Connecticut, N. York, Maryland, Delaware, South Carolina, Georgia, Alabama,\* Mississippi, Indiana, and Ohio—salutary laws that were once

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\* Alabama is erroneously classed in the above list; it passed laws January 15th, 1830, and at the session of 1841-2 establishing medical boards to determine the qualifications of physicians and apothecaries, etc. These laws, though found inefficient, *had not been repealed* in 1851. See pp. 98-102, vol. i., and p. 537 vol. viii.



enacted and enforced *have been repealed*, and the field is open to one and to all. And in the fourteen following states—N. Hampshire, Massachusetts, Rhode Island, Pennsylvania, Virginia, North Carolina, Tennessee, Kentucky, Illinois, Missouri, Wisconsin, Iowa, Arkansas, Texas—it appears that no laws regulating the practice of medicine have ever been enacted.” “The opinion of the committee is that there is no legislation on the subject in Florida and California.”

The chairman of the committee comments on the satisfaction, with the Louisiana laws, of the above Boston editor, who had affirmed that “no state in the Union is better protected against impositions of all kinds than Louisiana.” Dr. Hort replies: “This city and state are overrun with irregular practitioners *just as much* as though no law on the subject existed on the Statute Book. We would not cast the slightest imputation on the persons constituting the Board of Medical Examiners. But they cannot contend against *public opinion*.” “We wish to be plain on this subject, and particularly so, as, when the legislature was last in session, an attempt was made to induce that body to make the existing and almost obsolete laws still more stringent. But if the laws at present in force are not sufficient to afford protection and suppress imposition—laws which are considered *the best* for such purposes of *any State in the Union*—the same public opinion, which now renders them inoperative, would be roused to firmer decision and stronger opposition against the more stringent law.” “We may appeal to the legislature for more stringent laws, and more effectual protection; should we succeed in persuading the legislature, which is exceedingly doubtful, still, that *will not carry public opinion with us*. And all such laws, enacted in opposition to public opinion, ever have remained and ever will remain dead letters on the Statute Book.” Finally, Dr. Hort writes: “Attorneys, after receiving a fee, have neglected to do their duty; and members of the Board of Examiners have stated that the law could not be enforced, because the empirics constituted too strong an opposition.” “If the law can not be enforced because lawyers cannot be induced to sue; and if it is the deliberate opinion of members of the board that it is *impolitic to enforce the law*, then we must say that strict justice, propriety, and expediency should induce the members of the board to resign at once; and that it should be recommended to the next legislature to *repeal the law*, and *abolish both Medical Ex-*

aming Boards. There is nothing fair in the present system, and *the sooner it is got rid of the better.*"

As has been stated, the system was most effectually gotten rid of by the law of March 10th, 1852. Immediately thereafter, April 5th, 1852, "G. L. Browning, Recording Secretary of the Louisiana State Medical Society," did in his official report denounce the laws, which had been repealed, as a "feeble barrier," and "certainly, to a great extent, inoperative" (p. 814, vol. viii.).

The officers of the Louisiana State Medical Society issued, March, 1853, a "Circular to the Medical Profession of Louisiana," urging attendance at the approaching annual session, and do therein accidentally refer to the "repeal of the License Law," as an "*injudicious measure*" (p. 708, vol. ix.). After diligent search, this public protest against the repeal of these laws is *the only one*, which I have found, emanating from any members of the medical profession, living at the time when there was opportunity to witness the practical operation and inefficient results of these laws.\* How little weight should be attached to this feeble protest is evident from the fact that a committee of five had been appointed in 1852, to report at the session of 1853, in regard to which the above circular was issued; and this committee, after a year's consideration, unanimously reported to the State Medical Society as follows (see p. 831, vol. ix.). "They also recommend that no attempt be made by this Society to procure any state legislation on the subject of license, *satisfied as they are*, that even if a wise and righteous law of this kind could be passed, *it would at best remain a dead letter*, and in the view of too many be regarded as a reproach to regular medicine. *As the best means* to uphold the dignity, defend the rights, and promote the usefulness of the medical profession in Louisiana, your committee would recommend the employment of all proper

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\* Since the above was written, I have found the following additional protest.

Dr. A. F. Axson, Editor of the N. O. "Monthly Medical Register," published an editorial in the March No., 1853, upon "The License Law—State Medical Society," in which he states, "That any diversity of opinion should exist among the educated members of the profession, as to the policy and advantages of such a law, has ever been inexplicable to us;" and he urged the State Medical Society to make efforts to secure the re-enactment of a law regulating the practice of medicine—of a law full enough "to meet all the exigences of the occasion"—a law which, among other things, should refuse to recognize any diploma whatever, and force graduates from every school before the Medical Examining Boards.



measures to increase the membership of this Society, extending it if possible into all parts of the State; but at the same time observing rigidly the rules now in use for the admission of members, and the granting certificates of membership to all who obtain this right.\*

The evidence, now fully presented, serves to explain satisfactorily, I trust, why, as a member of our State Association, I, in January, 1878, strenuously objected to petitioning our legislature to "reestablish medical examining boards," and insisted that for the present it sufficed for the society to first "*consider the propriety*" of such proceeding, before taking action.\* The reader can now also understand why, when referring to our medical laws from 1808 to 1852, I, in *May*, 1874 (see pp. 828, vol. i., New Series), wrote: "Now, the reasons why these good laws, which vested authority in examining boards composed of our best medical men, were not enforced, should be sources of instruction and of serious thought to those *who advocate another trial of State action*. These wise and adequate laws were not enforced by the medical boards, *because public opinion would not sustain them*." "Even without this experience, I should have urged that it is idle to expect from ignorance in thought persistent wisdom in action; from inferior citizens, superior conduct; and from institutions, any more rapid improvement than those are improved who support them; for, I concur with the distinguished philosopher (Herbert Spencer) who writes: "The belief, that a faulty character can so organize itself socially as to get

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\* I have not now information sufficient to justify a report as to all the states, but have been informed during this year (1878) that in several of the states (viz., Arkansas, Iowa, Maryland, Michigan, and New York), efforts are being made to secure effective laws regulating the practice of medicine; that Kentucky and Missouri have such laws, passed in recent years, but pronounced "worthless" and "dead letters;" that New Hampshire passed such a law in 1875, Texas in 1873 and subsequently amended it in 1876, California in 1876, Illinois in 1877, and that Vermont has such a law. The city of St. Louis enacted in 1877 ordinances controlling the subject. New York since 1806 has enacted many laws on this subject; the acts now in force are those of 1872 and 1874. Like Texas, New York places Homœopaths, and Eclectics, on the same footing as regular practitioners; and the history of all the legislation of New York teaches the very same lesson taught by the facts presented in this article as to Louisiana.

Before the Louisiana State Medical Association takes any action on this subject, in imitation of other states, it should be well informed what laws, efficient and satisfactory, now exist or ever have existed in any of the States, and should require *copies of such laws, with proofs of their efficiency*.

out of itself a conduct which is not proportionately faulty, is an utterly baseless belief."

Having now cited the laws regulating the practice of medicine in Louisiana from 1808 to 1852, and the testimony as to their operation and results, it remains to pursue the history of our laws to the present time. As has been stated, the repealing law, which widely opened the portals of Louisiana to irregular practitioners and quacks of every kind, was enacted March 10th, 1852. This law unchanged is repeated in the "Revised Statutes, 1856," and was, I presume, the law until 1861. Such modification as it then underwent can be estimated from the words of the law about to be presented as now in operation. For, our laws at present are those published in "Ray's Revised Statute Laws, to the year 1869 inclusive," (pp. 526-7), and are republished unchanged on pp. 696-7 of "Voorhies' Revised Statutes, 1876" which are "up to and including the session of 1876." These laws, presented in the nine sections, "Sec. 2677-2685," were enacted at the following dates. Sec. 2684-2685 are parts of Act No. 49, 1847, and were re-enacted, p. 417 Acts of 1855; Secs. 2677-8-9-80-1 were enacted March 16th, 1861 (p. 113-4, No. 153 Acts of 1861), and Sects. 2682-3 are referred to p. 146 Acts of 1869.

These our present laws are under the heading, "PHYSICIANS," and are as follows:

"SEC. 2677. No person shall be allowed to practice medicine, as a means of livelihood, in any of its departments, in the State of Louisiana, without first making affidavit before a duly qualified justice of the peace in the parish wherein he resides of his having received the degree of Doctor of Medicine from a regularly incorporated medical institution in America or Europe, and designating its name and locality. (1861).

"SEC. 2678. The justice of the peace, before whom the said affidavit is made, be required to furnish to the person making it a certificate of the fact, and also to transmit a copy of the affidavit to the parish recorder, who shall record the same in a book to be kept for that purpose, for which services the aforesaid officers shall each be entitled to one dollar. (1861).

"SEC. 2679. Any practitioner failing to comply with the requirements of Sec. 2677 of this act, shall not be permitted to collect any fees or charges, for services rendered, by legal process—and moreover shall be liable to a penalty of twenty dollars for each and every violation thereof; said sum or sums to be collected by indictment or information, as in other cases provided by law. [1861.]



"SEC. 2680. One-half the fines imposed under this act shall be paid to the prosecutor, and the remainder into the parish treasury. (1861).

"SEC. 2681. The provisions of this act, relative to physicians, shall not apply to persons who have been practicing medicine for the space of ten years in this state, without diplomas, nor to female practitioners of midwifery as such. (1861.)

"SEC. 2682.\* There shall be levied and collected an annual amount as a license—from each and every person pursuing any profession or occupation, not herein provided for, [physicians were not herein provided for] thirty dollars. (1869).

"SEC. 2683.\* No physician, surgeon, midwife, lawyer, or other professional person, except teachers, shall practice in this state, unless he or she has first taken out a license in accordance with this law. No physician, surgeon, midwife, lawyer or other professional person, teachers excepted, shall be allowed to collect a claim for professional services, unless he or she can exhibit a license in accordance with this law; a failure to exhibit such license, when called for, shall entitle the defendant to a nonsuit. Each lawyer, etc., \* \* \* \* Any judge, justice, or recorder, violating the provisions of this act relative to physicians, shall be liable to a fine of \$500, to be recovered before a District Court, to be sued for by the District Attorney or Attorney General—one-half to go to the informer, and the prosecuting attorney to receive a fee of \$50, on conviction in each case. (1869.)

"SEC. 2684. The administration of the University of Louisiana, shall have the right of conferring, under their common seal, on any person whom they may think worthy thereof, all literary honors and degrees known and usually granted by any university or college in the United States or elsewhere. The degree of Bachelor at Law, and Doctor of Medicine granted by them shall authorize the person on whom it is conferred to practice law, physic, and surgery in this state. (1847 and 1855.)

"SEC. 2685. All diplomas granted by them shall be signed by the President of the University, the Chairman of the Board, and the professors of the departments in which the students may have graduated; and by such other officers of the University as may be provided for by the laws of the University."

In the Medical Department there shall never be less than seven professors, which number shall be increased only at the

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\*Secs. 2682 and 2683 are cited very differently in "Ray's Revised Statutes" in one volume (given above) from the text in the two volume-edition; although both editions are dated "1870." In the edition in two volumes, the law of the "Extra Session of 1870, p. 126," is cited. This law reduced the annual state tax for a physician's license to \$20.

suggestion and recommendation of the faculty of that department." (1847 and 1855).

A few words as to the operation of these laws will end my task. Though a resident of New Orleans since 1851, I do not know, nor did I ever hear, of a single instance where the slightest regard was ever paid to the above provisions, Secs. 2677, 2678, 2679, and 2680; and the first two sections are certainly *dead letters*.

As to Sec. 2682, my own experience is that, after a physician becomes well known, the State Tax Collector never fails to collect the annual license tax which is now \$20. If the law furnishes me, as a physician, with any *quid pro quo* for my \$20, I am not aware of it.

In fine, my personal experience from 1851 to 1878, is, that no civilized country can surpass Louisiana in the freedom, from all practical legal restraint, enjoyed by vendors of poisons and of patent medicines, by superstitious and unskilled midwives, and by medical quacks of every description.



